

LABOUR DEPARTMENT

The 14th September, 1981

No. 9(1)81-6Lab./10296.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Shahbad Farmers Cooperative Marketing-cum-Processing Society Ltd. Partap Mandi, Shahbad Markanda.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR
COURT, HARYANA, ROHTAK.

Reference No. 33 of 78

between

SHRI CHHAJU RAM, WORKMAN AND
THE MANAGEMENT OF M/S SHAH-
BAD FARMERS COOPERATIVE
MARKETING-CUM-PROCESSING
SOCIETY LTD., PARTAP MANDI,
SHAHBAD MARKANDA

Present :

Shri Madhu Sudan, for the workman.

Shri Surinder Kaushal, for the
management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—vide his order No. ID/KNL/22-78/8374, dated 21st February, 1978, under section (10)(i) (c) of the Industrial Disputes Act for adjudication of the dispute existing between Shri Chhajju Ram, workman and the management of M/s Shahbad Farmers Cooperative Marketing-cum-Processing Society Ltd., Shahbad. The term of the reference was:—

Whether the termination of services of Shri Chhajju Ram was justified and in order? If not to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The workman appeared through his authorised representative but no one appeared on behalf of the management as the notice sent to them was not served upon them. Both the parties appeared on the next date. The parties filed their

respective pleadings and issues were framed as under on the basis of their pleadings:—

1. Whether the workman resigned his post of his own accord? If so to what effect?
2. If issue No. 1 is not proved then as per reference?

The management examined Shri Prem Sagar, Inspector Cooperative Societies as MW-1 and Shri Sher Singh, Inspector, Cooperative Societies Shahbad as MW-2 and closed their case. The workman examined himself as his witness and closed his case. The parties preferred to file written arguments. After going through the written arguments and the evidence oral as well as documentary available on the record decide issues as under:—

ISSUE NO. 1:

MW-1 deposed that he took over as Administrator respondent society on 15th October, 1975 and worked upto June 1977. He stated that Shri Chhajju Ram submitted his resignation on 4th July, 1975 and his predecessor appointed Chhajju Ram as Salesman in Landhi Branch on commission basis and told him that if the work at Landhi branch was not found satisfactory thenafter decision on his resignation will be taken. The society adopted a resolution in this matter on 25th July, 1975, the photocopy of which is Ex. M-1. He further stated that this resignation was not withdrawn and the same was accepted by him,—vide his order Ex. M-2 dated 18th November, 1975 when the work at Landhi branch was found unsatisfactory. Thenafter the workman received his final payment,—vide Ex. M-3 and Ex. M-4 and it was scribed by Shri Chhajju Raj in the receipt that he had left the work following his resignation dated 4th July, 1975. In his cross examination he has given out that he did not enquire about the working at Landhi branch from the workman because the workman was working there on commission basis and it was so decided,—vide resolution Ex. M-1 on which the workman signed at mark 'A'. He has

further given out that the photocopy of the resignation is Ex. W-1 and he had brought the original of the same. He was not aware whether the Landhi sale depot continued working after the acceptance of resignation or not. MW-2 Shri Sher Singh has deposed that Shri Chhaju Ram gave his resignation Ex. W-1 to him and the proceedings dated 31st July, 1975 regarding Ex. M-1 in the resolution book were dictated by him and Shri Chhaju Ram put his signatures at mark 'A'. In his cross examination he has given out that the resignation was not accepted by him then and there and was kept pending. The workman has admitted the tendering of Ex. W-1 and his signatures on Ex. M-1 and the fact of his working on commission basis at Landhi branch. He has also admitted his signatures on Ex. M-3 the receipt of payment for Rs. 320-85 paise wherein also the workman has admitted that he was leaving the work on the basis of his resignation dated 4th July, 1975. He has also admitted his signatures on Ex. WW-1/1 and WW-1/2 which are the notice of demand and the statement of claim filed by the workman.

From the documents on the file and the oral evidence of the parties it is abundantly clear and proved fact that the workman resigned on 4th July, 1975 and the resignation was never withdrawn till 18th November, 1975 the date on which the same was accepted,—vide order Ex. M-2 and the fact of resignation was concealed by the workman and was neither mentioned in his demand notice, nor in his statement of claim and his rejoinder. The workman has also never pleaded that the resignation was obtained under threat or duress or under prevailing fear of emergency atmosphere nor any such suggestion was put to the management witnesses when they appeared in the witness box.

On the basis of my above findings I hold that the workman resigned on his own accord. The learned representative of the management has argued that when it is a case of resignation the order of reference is bad in law as there was no industrial dispute in existence under section 2(A) of the Industrial Disputes Act

which contemplates an order of discharge, dismissal, retrenchment or termination otherwise and in the present case there was different position as the workman abandoned his services by way of resignation. On the other hand the authorised representative of the workman has contended that the Government was competent to make the order of reference even in cases of resignation and he has cited 1979 Lab. I. C. page 234 Karnataka High Court but the facts of the case in hand are different then those cited above. The workman had pleaded the fact of resignation under threat and in the case under decision no such allegation has been made by the workman. In the absence of any allegation of threat or duress from the side of the workman the dispute is not referable by the Government and the same if referred is bad in law as there existed no industrial dispute under section 2(A) of the Industrial Dispute Act. The issue is accordingly decided in favour of the management.

ISSUE NO. 2:

When issue No. 1 is decided in favour of the management the workman is not entitled to any relief, as this is a case of resignation and of termination as a result of the same and not by any act of the management requiring them to justify the same. The reference is answered and returned accordingly.

Dated 29th August, 1981.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

Endorsement No. 3247, dated 2nd September, 1981.

Forwarded (four copies), to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

H. L. GUGNANI,
Commissioner & Secretary to
Government, Haryana, Labour and
Employment Departments.